



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

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OFFICE OF
WATER AND
WATERSHEDS

Mr. Dale Bambrick, Chief
National Oceanic and Atmospheric Association (NOAA) Fisheries
Columbia Basin Branch
304 South Water Street, Suite 200
Ellensburg, Washington 98926

Dear Mr. Bambrick:

The US Environmental Protection Agency (EPA) is re-proposing to issue a National Pollutant Discharge Elimination System (NPDES) Permit to the US Fish and Wildlife Service (USFWS), Leavenworth National Fish Hatchery (LNFH). The Permit will place conditions on the discharge of pollutants from the LNFH into Icicle Creek, a surface water of the United States, pursuant to the provisions of the Clean Water Act (CWA), when issued. Enclosed for your information and review is a copy of the Draft NPDES wastewater discharge Permit. Also included is the fact sheet which outlines the basis for the Permit conditions.

In the US Code of Federal Regulations (CFR) at 40 CFR 122.24, and in Appendix C of 40 CFR 122, the EPA has defined a hatchery, fish farm, or other facility as a concentrated aquatic animal production (CAAP) facility if it contains, grows, or holds more than 20,000 pounds of aquatic animals in ponds, raceways, or similar structures. CAAP facilities are also defined as discharging at least 30 days out of the year, and feeding more than 5000 pounds of fish feed in the maximum month of feeding. At the LNFH, more than 20,000 pounds of aquatic animals are produced and released each year, and the range of food pounds fed during the maximum month of feeding was determined to be between 9643 in 2015 and 13,528 pounds in 2011. Therefore, the LNFH is clearly a CAAP facility for which an NPDES Permit is necessary to authorize discharges of wastewater to surface waters of the U.S. under the CWA.

Although the EPA has delegated the authority to administer the NPDES Program to the State of Washington Department of Ecology (Ecology) for most of the wastewater permitting in the state, the EPA retains the authority to administer the NPDES Program for federal and tribal facilities within the State of Washington.

The Endangered Species Act (ESA), at 16 U.S.C. § 1536, requires federal agencies to consult with the USFWS and the National Oceanic and Atmospheric Administration - Fisheries Service (NOAA Fisheries) if their actions could beneficially or adversely affect any threatened or endangered species, or their critical habitat. In this action, the federal agency is the EPA, and the federal action is the proposed issuance of a NPDES Permit to the USFWS for CWA authorization to discharge wastewater from the LNFH into Icicle Creek. The consultation is meant to ensure that this NPDES Permitting Action will not jeopardize the continued existence of any endangered or threatened species, any species proposed to be listed as endangered or threatened, nor result in the destruction or adverse modification of critical habitat for such species.

A review of the NOAA-listed threatened and endangered species located in the Interior Columbia Recovery Domain (including Central Washington) finds that this permitting action is

not likely to adversely affect the salmonid species of concern for Chelan County, Washington. http://www.westcoast.fisheries.noaa.gov/publications/gis_maps/maps/salmon_steelhead/critical_habitat/wcr_salmonid_ch_esa_july2016.pdf

The reasons for this determination can be found in EPA's Biological Evaluation (BE) that was recently developed for ESA consultation on the NPDES General Permit for Federal Aquaculture Facilities and Aquaculture Facilities Located in Indian Country within the Boundaries of the State of Washington (Washington Hatchery General Permit), finalized on December 24, 2015, and submitted to NOAA Fisheries and the USFWS in order to engage in ESA Section 7 consultation on the potential impacts of permitting federal and tribal fish hatcheries around Washington State. It can be downloaded from the EPA website at https://www3.epa.gov/region10/pdf/permits/npdes/wa/WA_Hatchery_GP_WAG130000_BE.pdf

The LNFH was not included in the EPA's Washington Hatchery General Permit, due to having specific temperature and total phosphorus limits that apply to the facility. The LNFH is going to receive an individual NPDES Permit from the EPA; however, the chemicals in use at the LNFH and the operations involved in running and maintaining the LNFH are similar to those evaluated in the 2015 Washington Hatchery General Permit BE. On the NOAA GIS map, the EPA found that the **salmonid species listed in Chelan County (this NPDES Permitting Action Area) included species for which the risk evaluation and effects determinations are discussed in the Washington Hatchery General Permit BE.** That is, since the LNFH hatchery chemicals are the same as the chemicals evaluated statewide, and the species of interest in Chelan County are a subset of all the species evaluated statewide in the BE, the EPA has determined that, **consistent with the General Permit BE, the issuance of this LNFH NPDES Permit may affect, but is not likely to adversely affect, salmonids in the action area.**

The EPA and NOAA Fisheries conducted informal ESA consultation on the General Permit. NOAA Fisheries verbally concurred, and the EPA referenced their concurrence in the Federal Register announcement of the final Washington Hatchery General Permit. The Federal Register Notice can be downloaded at <https://www.federalregister.gov/documents/2016/06/21/2016-14671/reissuance-of-npdes-general-permit-for-discharges-from-federal-aquaculture-facilities-and> The EPA Washington Hatchery General Permit went into effect on August 1, 2016. The EPA is still awaiting written concurrence on the effects determinations in the December 2015 BE from NOAA at this time.

The EPA is now requesting that you download the Washington Hatchery General Permit BE, along with reviewing the enclosed update to Chapters 1-4 that tailor the federal action and the action area to the USFWS Leavenworth National Fish Hatchery facility (Leavenworth Specific Forward to the BE).

The risk assessment work and effects determinations of the Washington Hatchery General Permit BE are unchanged, as the chemicals in use at the LNFH are similar to those used at other hatcheries around Washington State, and the operations for fish production at the LNFH are similar to those in use at other hatcheries as well. Because all of the risk assessment and effects analysis work was recently done statewide for the EPA Washington Hatchery General Permit, the EPA believes that the same analysis and conclusions hold for the LNFH.

This letter and its enclosures comprise the EPA request for informal ESA consultation on the proposed issuance of a NPDES Permit to the USFWS LNFH. If you have any questions about the information presented, please feel free to contact me at (206) 553-1755; or Jill Nogi, of my staff, at (206) 553-1841 or nogi.jill@epa.gov

Please respond to our request for concurrence in the next 60 days. In addition, any comments that you have on the Draft Permit are due to the EPA by the end of the public comment period. The EPA will be happy to inform you of the date that the public comment period will close in the near future.

Sincerely,

Michael J. Lidgard, Manager
NPDES Permits Unit
EPA Region 10

Cc: Scott Anderson, NOAA Fisheries, Lacey Office

Enclosures

1. Draft NPDES Permit for the Leavenworth National Fish Hatchery
2. Fact Sheet Accompanying the Draft Permit
3. October 2016 Forward to the December 2015 EPA Biological Evaluation for the Washington Hatchery General Permit Endangered Species Act Section 7 Consultation with the USFWS
4. Excel Spreadsheets Detailing the Risk Assessment and Effects Analysis Work